



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL - 1 1998

Office of the Assistant Secretary

AFBCMR 98-00271

MEMORANDUM FOR THE CHIEF OF STAFF

Under the authority of Section 1552, Title 10, United States Code and Air Force Instruction 36-2603, and having assured compliance with the provisions of the above regulation, the decision of the Air Force Board for Correction of Military Records is announced, and it is directed that:

The pertinent military records of the Department of the Air Force relating to [redacted] the Air Force corrected to show that on 18 October 1986, he changed his election from spouse coverage to former spouse Survivor Benefit Plan (SBP) coverage based on retired pay, naming [redacted] as the former spouse beneficiary.

John J. Grazio
JOHN J. GRAZIO
Chief Examiner
Air Force Board for Correction
of Military Records



DEPARTMENT OF THE AIR FORCE
WASHINGTON, DC

JUL - 1 1998

Office of the Assistant Secretary

AFBCMR 98-00271

MEMORANDUM OF CONSIDERATION OF APPLICATION BEFORE THE AFBCMR

SUBJECT: [REDACTED]

Having carefully reviewed this application, we agree with the recommendation of the Air Force Office of primary responsibility and adopt the rationale expressed as the basis for our decision that the applicant has been the victim of either an error or an injustice. Therefore, under the authority delegated in AFI 36-2603, the applicant's records will be corrected as set forth in the accompanying Memorandum for the Chief of Staff signed by the Executive Director of the Board or his designee.


Panel Chair

Attachment:
Ltr, HQ AFPC/DPPT, dtd May 21, 1998,
w/Atch



DEPARTMENT OF THE AIR FORCE
HEADQUARTERS AIR FORCE PERSONNEL CENTER
RANDOLPH AIR FORCE BASE TEXAS

21 MAY 1998

MEMORANDUM FOR AFBCMR

FROM: HQ AFPC/DPPTTR
550 C Street West Ste 11
Randolph AFB TX 78150-4713

SUBJECT: Application for Correction of Military Records

Reference: [REDACTED]

Requested Correction: The applicant, former spouse of the above-named retiree, is requesting corrective action that would entitle her to a Survivor Benefit Plan (SBP) annuity.

Basis for Request: The applicant claims a copy of the divorce decree was submitted to the finance center and was not aware other actions were required to change the member's record after their divorce.

Background: A spouse loses eligibility as a spouse beneficiary following divorce. However, the law provides two mechanisms for changing spouse coverage to former spouse coverage. Both must be exercised within the first year following divorce: the retiree may file an election change, or the former spouse may request the retiree be deemed to have made such a change on his or her behalf. In the latter case, the former spouse must provide legal documentation that the member agreed, or that the court ordered the member, to establish former spouse coverage. If neither the member nor the former spouse requests the election change during the one-year eligibility period, former spouse coverage may not be established thereafter. Although SBP premiums may continue to be deducted from the member's retired pay following divorce, the former spouse is not eligible to receive annuity payments in the event of the member's death.

Facts: The member and applicant were married on 18 Aug 64 and he elected spouse only SBP coverage based on full retired pay prior to his 1 Aug 86 retirement. The parties divorced on 17 Oct 86 and the member agreed to continue SBP coverage on the applicant's behalf; however, neither submitted a valid election to change the SBP coverage from spouse to former spouse. Premiums for spouse coverage continued to be deducted from his retired pay and finance records erroneously listed the applicant as the eligible spouse beneficiary. The applicant has not remarried; however, the member married [REDACTED] on 15 Dec 89, but did not request SBP coverage be established on her behalf. The member died on 13 Oct 97.

Discussion: Even though the member did not request former spouse coverage be established, he didn't request SBP premiums be discontinued following their divorce, nor is there any evidence he requested the petitioner's coverage be terminated following his remarriage, all indicative of his intent to maintain the applicant as the eligible SBP beneficiary. Furthermore, the applicant reported [REDACTED] and the decedent divorced in Nov 96 and [REDACTED] remarried in Mar 98, prior to age 55. To deny this request would be to deny the applicant an asset awarded to her by the court.

afoc271

Recommendation: Although there is no evidence of Air Force error, to preclude a possible injustice, we recommend the member's record be corrected to reflect that on 18 Oct 86 he elected to change SBP spouse coverage to former spouse coverage based on full retired pay, naming [REDACTED] as the eligible former spouse beneficiary. Approval should be contingent upon recoupment of applicable premiums.

Pat Peek

PAT PEEK, DAFC
Chief, Retiree Services Branch
Directorate of Pers Program Management

98 00271